

THE PARLIAMENTARY DEBATES

OFFICIAL REPORT

PROCEEDINGS AND DEBATES OF THE SECOND SESSION (1959—60)
OF THE FIRST LEGISLATURE OF THE WEST INDIES,
CONSTITUTED UNDER THE WEST INDIES
(FEDERATION) ORDER IN COUNCIL, 1957.

20th Sitting

Monday, 23rd May, 1960

HOUSE OF REPRESENTATIVES

The House met at 2.30 p.m.

Prayers

[MR. SPEAKER *in the Chair*]

PAPER LAID

The following Paper was presented :
Supplementary Estimates (No. 2)
1960 — [*Minister of Finance*]

ORAL ANSWER TO QUESTION

Protection of Illegitimate Children Left in West Indies

Mr. Stone (Hanover, Jamaica) asked the Prime Minister to state what decision, if any, had been reached with the United Kingdom Government in regard to the establishment of adequate legal machinery in the United Kingdom for protection of illegitimate children left behind in the Unit Territories by West Indians who have emigrated to the United Kingdom and are residing there ?

The Prime Minister : Mr. Speaker, the answer to the Question is as follows :

“This matter has not so far been raised with the United Kingdom Government by the Federal Government, and consequently no decision has been reached by the United Kingdom thereon. However, it is under consideration and every avenue will be explored with a view to prevent parents who emigrated to the United Kingdom from neglecting their responsibilities towards illegitimate children.”

This is not a part of the written answer, but I think that most hon. Members know that practically every Territory of the Federation has some legislation of this sort.

Mr. Hill : Will the Prime Minister tell this House, Mr. Speaker, how long ago this matter was raised with the Federal Government ? Does he not know that it was raised as far back as December, 1958 ?

The Prime Minister : I accept the hon. Member's date, but I am inclined to say that if there was no earlier answer to this Question, it was for the reason just given. Practically every Territory that I know of has that type of legislation.

Monday, 23rd May, 1960

Mr. Stone: I would like the Federal Government to try and expedite that legislation, because the Migrant Services say there is no legal machinery in operation between any of the Unit Territories and the Federal Government, or the United Kingdom Government and the Federation.

The Prime Minister: I have not spoken to the Attorney General about this matter and I do not know how pressing it is. Another thing is that I have been approached by many migrants in England asking me if I could do something about court orders made against them, the reason being that if they could show that they had to pay for children in The West Indies they would pay less income tax; so that I do not think they would be against paying this money.

AIR SERVICES AGREEMENT

The Minister of Communications and Works (Mr. Rose): Mr. Speaker, I wish to make a Statement about the recent discussions both in Barbados and in Washington, concerning the review of the air services agreement between the United Kingdom and the United States, and at which The West Indies were represented as adviser to the United Kingdom delegation.

The Agreement relating to the provision of air services between the United Kingdom and the United States of America, including the Caribbean area, is known as "the Bermuda Agreement". This Agreement was, however, drawn up as far back as 1946, when tourism in the Caribbean area and the operations of the regional carrier (B.W.I.A.) were both in

their infancy. The air services provided under that Agreement are now completely inadequate for the requirements of the developing tourist industry and transport needs of the various Territories of the Federation.

Earlier this year, in advance of the Barbados conference, the Premier of Jamaica and myself made representations to the United Kingdom Government on the urgent necessity of reviewing the Caribbean routes. We also warned of the danger of a settlement of our claims being prejudiced by bargaining on other matters with which The West Indies were not directly affected.

During the discussions in London in January, with my agreement, the Jamaica Government had submitted certain proposals which had subsequently been augmented by a memorandum from the Federal Government. These were designed to enable both British and United States air carriers to have the right to fly between the major population centres of the United States, Jamaica and the Eastern Caribbean, so as to provide an adequate network of air services so essential to the proper development of the tourist industry of The West Indies, and which in turn is of vital importance to the economy of several of the Territories of the Federation. These proposals were considered at the Barbados conference and certain expanded air routes for the Caribbean area were generally agreed upon, subject to a few outstanding points which required further study.

The discussions in Barbados were recessed and were resumed in Washington a few weeks ago.

Monday, 23rd May, 1960

In Washington I again pressed upon the United Kingdom delegation that in the event of another deadlock between themselves and the United States on an overall settlement, there should be a separate settlement with the United States in respect of the new air routes for the Caribbean area.

Such a proposal was eventually made by the United Kingdom delegation, but it came towards the end of the Conference when the two Governments concerned were still far from an agreement on some of the wider issues which separated them, and at a time when it seemed likely that the Washington discussion, like those at Barbados, would also break down. Against this background, the United States declared that they were unable to consider a separate agreement for the Caribbean. I am firmly of the opinion, however, that had such a proposal been made at a more propitious moment, we would have secured an agreement on the Caribbean area.

As things stand at present, while progress was made in Washington by resolving all the points left outstanding at Barbados affecting The West Indies, because of the failure of both parties to reach agreement on an overall settlement, the discussions have again been adjourned without a final decision having been taken on the proposed new route structure for this area.

Once more the vital interests of The West Indies have been vitiated because of the failure of the United Kingdom and the United States to reach agreement on matters which in no way concern The West Indies.

Honourable Members will no doubt have seen a Press communique which has been issued by the Premier of Jamaica on the failure of the Washington discussions.

For its part, the Federal Government is much concerned about the position. It has therefore sent a telegram to the Secretary of State expressing in no uncertain terms its disappointment and dissatisfaction over the failure to settle the new route pattern in the Caribbean area, and recommending that a further conference be convened between the United Kingdom, the United States and The West Indies to reach final agreement on the Caribbean Area, where West Indian interests are concerned.

Mr. Gomes : Mr. Speaker, I wonder whether the Minister would tell us to what extent the Federal Government had endeavoured to put their own house in order as regards an achievement of their own national carrier as a necessary precursor to any ultimate rationalization of airway system in this part of the world.

Mr. Rose : I would have thought, Mr. Speaker, that the hon. Member was aware of the fact that the Federal Government was contemplating the appointment of a Commission of Inquiry into Civil Aviation.

Mr. Gomes : Mr. Speaker, that is not my point. If I may put it this way, it seems to me that the Federal Government is getting itself involved —

The Prime Minister : Put that as a supplementary question.

Mr. Gomes : I am surprised and disappointed that an experienced Parlia-

Monday, 23rd May, 1960

[MR. GOMES]

mentarian like you could make a point like that. It shows that the Prime Minister is in buoyant humour and that augurs well for the rest of the evening. But may I return to my point. My point is this: We appear to be getting ourselves involved in what is after all a struggle between national air interests. My question therefore is this: To what extent are we ensuring that when we are bargaining in that context we would be doing so from a position of strength? The only way in which we can achieve that position of strength is by settling our own problems which, I wonder whether the Minister will agree with me, are in an extremely chaotic and unsatisfactory condition at the present time. I am aware of the fact that whenever one hears anything about West Indian airways, for example, it is always that more people are being retrenched: and it is a well known fact that that same air service will never produce the result which we all want it to produce so long as the persons who are employed there cannot look forward to any sort of promising future and merely have to live from day to day. The only solution of the problem is for the Federal Government to do what it has failed to do up to the present time and that is —

Mr. Speaker: I think it would be better to allow the Minister to answer. You mustn't answer for him.

Mr. Sinanan: Perhaps I could save time in view of what my hon. Friend has just said and in view of the statement made by the Minister. I believe all of us agree that it is indisputable that Communications are extremely important for the success of the Federation. In view of that

if it will not be in any way inconvenient to the Minister to state whether it would be possible to have a debate on this matter when we could elicit all the facts — [Interruption] May I make it clear to my hon. and learned Friend the Prime Minister that this is a matter of paramount national importance. It strikes at the very core of the success of Federation and he can rest assured that if the Minister convinces us of the merits of his case there is going to be complete unanimity in this House. That is the only reason we want to get the facts so that we can have unanimity on this matter.

Mr. Rose: Mr. Speaker, whilst we appreciate the point made by the hon. Leader of the Opposition, the position is that we have made a request to the Secretary of State and Government would prefer to await the reply from him before committing itself to a debate on this subject.

Mr. Gomes: I would like to move the suspension of the Standing Orders to move that this House do debate this Statement at sometime during this Sitting.

Mr. Speaker: Mr. Gomes that is not a proper point. You cannot move the suspension of the Standing Orders for that.

Mr. Gomes: I would like to submit to the House — [Interruption] — You are always extremely co-operative, Sir.

Mr. Speaker: I wonder whether you would grant me the indulgence of just saying a few words, having regard to the fact that there has been an obvious anxiety displayed on this side of the House to give the Federal Government all

Monday, 23rd May, 1960

possible support in this matter to reinforce their position so that it would facilitate the purpose which we had in mind.

Mr. Speaker : Mr. Gomes may I suggest that you put it down in writing to raise on the adjournment on a subsequent occasion.

Mr. Gomes : Mr. Speaker, I certainly accept your suggestion and I thank you very much for it. I will put it down in writing.

May I just say one last word? I am rather disappointed that the Prime Minister, just when we have been here for a few days, begins to show that he is rather impatient that we should not remain here too long. I have always had a great respect for him as a person who has great feelings for democratic institutions but, believe me, he is shaking my confidence a bit. I regret to have to say that. He is shaking my confidence not only a bit but considerably when he makes statements of that sort.

**DEFENCE (RETIRED PAY, PENSIONS AND OTHER GRANTS)
(AMENDMENT) REGULATIONS, 1960**

Order read for following Motion :—

“RESOLVED that the House of Representatives approve the Regulations entitled “The Defence (Retired Pay, Pensions and Other Grants) (Amendment) Regulations, 1960” made by the Governor-General on the 12th May, 1960, under the provisions of Section 221 of the Defence Act, 1958.”

— [The Minister of Finance]

The Minister of Finance (Mr. Bradshaw): Mr. Speaker, I beg to move the Motion standing in my name. These Regulations relate to the payment of benefits to dependants of officers and men of the West India Regiment who died while in service or as a result of injuries received in the course of duty. The Regulations give discretionary powers to the Governor-General to make pensions payable to a pensioner, who is serving a term of imprisonment, for the benefit of his dependants or for the payment of his debts; and similar discretionary powers where a pension would otherwise have been payable to a person adjudicated a bankrupt or declared insolvent by a court of competent jurisdiction, whether in the Federation or elsewhere, who has not obtained his discharge from bankruptcy or insolvency at the date of his retirement.

I commend the Resolution to the kind consideration of the House.

Mr. Hill : Mr. Speaker, one would have imagined that the Minister of Finance in asking acceptance of these Regulations would have done more than read a Civil Service brief; because he has told us what the Amendment seeks to do. When we bring Amendments we have to tell the cause and the reason for the Amendment. These are not Regulations *ab initio*. These are Regulations that are being amended, and although the Prime Minister is not accustomed to giving reasons for his numerous inadequacies, I would have imagined that the Minister of Finance would have told us not merely the purpose of the Amendment but the reasons behind it.

Question put and agreed to.

Monday, 23rd May, 1960

**OVERSEAS JUDGMENTS
(RECIPROCAL ENFORCEMENT)
BILL**

Order read for Second reading.

The Prime Minister : Mr. Speaker, this is a simple Bill. It is so simple that I expect the six lawyers on the other side to make long speeches—I am sorry, I should have said seven lawyers.

This is merely to do to others, so to speak, what they do to you. In short it is purely reciprocal enforcement and, with the greatest possible respect to the hon. Member who just sat down, it is difficult to find something more to say than the Objects and Reasons set out on Page 1.

“The object of this Bill is to provide for the enforcement in the Federation of judgments given in countries outside the Federation which accord reciprocal treatment to judgments given in the Federation and for facilitating the enforcement outside the Federation of judgments given in the Federation.”

You will enforce it in Great Britain or France or whatever country happens to give reciprocal treatment—and we will do the same for them. That is all this Bill means.—[*Interruption*] If your collector has any property that is a horse of a different colour. Sometimes you try to enforce a judgment and you spend more money in retaining a lawyer than you are collecting. Which is a very good thing!

Mr. Speaker, it is really difficult to say anything more than that. It has been drafted in the usual way by following Bills that have had sanction as long as we have been a British Colony or a British dependency or a British protectorate or a Commonwealth country. The justifica-

tion is that if you pass a Statute on which there has already been given an interpretation in the highest Courts in the British Commonwealth and Empire you can go wrong. Some lawyers do go wrong—there is a case which says so and so—

I repeat, Sir, that there is nothing more which I can usefully say on this matter. I beg to move that this Bill be now read a Second time.

Mr. Hill : Mr. Speaker, again this is a complaint that really did not originate only in this House of Representatives. In some Unit Houses of Representatives, we have had the same difficulty: that Ministers merely come in and do not tell the House the reason why they have introduced a particular Bill. They merely, in the most casual manner, tell the House that the Government-of-the-day wants to have such and such an Act passed. This does not apply to this reciprocal Bill alone.

I merely ask whether the provisions of this Bill will apply to Cuba, Venezuela, Guadeloupe, Martinique and the Dutch Colonial possessions in the Caribbean.

3.00 p.m.

The Prime Minister : It would be a very rash lawyer who would say off hand what countries this would apply to. All that we are saying is—those countries which do so to us. If Cuba, we say Cuba. From my experience, and my experience goes a long way, I say it is merely the British Commonwealth. These are not only minor things, the sort of cases in the Summary Courts to which the hon. Member referred; but they relate also to judgments in the Supreme Courts. For in-

Monday, 23rd May, 1960

stance, suppose you sue somebody who came here and did not pay you and he is going away before he pays you back, you could seek and obtain a judgment here before he goes. It only means to say that you don't have to worry about recovering your money if the country to which he goes, has the same Statute, for all you would have to do is lodge that judgment in his Court, in his registry and collect the money there.

Mr. Hill : Does it include the Dutch possessions ?

The Prime Minister : It would be a very rash person who would say so unless he had sat down last night and copied out all the countries to which this would apply.

Mr. Sinanan : I wonder if the Prime Minister would give us some clarification of Clause 8 of the Bill as it affects general principles ?

Mr. Gomes : The Prime Minister must do his home work.

Mr. Ricketts : You must do yours.

Mr. Hill : Keep quiet ! Hybrid !

The Prime Minister : To the extent that this matter is a matter of principle, the whole of this Bill deals with reciprocal enforcement, not the reciprocal bringing of actions. Therefore, it explains itself.

If the hon. Leader of the Opposition read carefully he will see that I am trying to be funny. If you bear in mind that this is an Act that applies to a man who has gone through all the process and has won and has got judgment in his favour and that judgment has been entered in country "A" and the de-

fendant has gone to country "B", this means that all you do is register your judgment in country "B" and draw the money there instead of having to hire a lawyer in country "A" to try to get that money for you from the man in country "B".

This Clause says :

"No proceedings for the recovery of a sum payable under an overseas judgment, being a judgment to which this Part of this Act applies, other than proceedings by way of registration of the judgment, shall be entertained by any court in the Federation."

Let me put it again. That is saying no matter where you live you can get judgment against a man owing you anything. It says if you get judgment against a man who owes you money you can register your claim and collect your money. The Act covers proceedings for registration. Next you register and you can levy on whatever he has, or in some countries you put a man up against a wall and put a few blank shots in a gun to influence him if he does not want to pay.

Mr. Sinanan : What I would like to find out is whether this action in effect ousts the jurisdiction of the Courts of the Federation so far as judgments are concerned. It says :

"—shall be entertained by any court in the Federation other than proceedings by way of registration of the judgment—"

I would like to explain, Mr. Speaker, that it is customary in respect of Bills of this nature, or any Bill for that matter, that before one proceeds to make his contribution, one gets certain points clarified so that one may avoid making comments on those points if one finds them unnecessary.

Monday, 23rd May, 1960

Mr. Ward: Mr. Speaker, perhaps being a bit conversant with this matter, I could explain to the Leader of the Opposition a little more clearly.

Mr. Joseph: Take over from the Prime Minister.

Mr. Ward: The present position, at least, in my country with regard to foreign judgments is that where the party happens to be within the jurisdiction of the court and such a judgment is final and conclusive, one can issue proceedings against such a party and sue on such a judgment as for a debt.

Well, this particular Act, as far as I can understand, is endeavouring to bypass the necessity of the bringing of an action as for a debt. It makes provision for the reciprocal enforcement of judgments of those countries that are prepared to give us the same reciprocal rights; and those countries will be determined by Order in Council of the Governor-General who will go into the matter and decide which country is giving us the same rights as we are giving them. When such countries are declared, any judgment of theirs will be recoverable purely by registration. In such cases it will not be necessary to bring such an action.

Where there is no reciprocal judgment or treaty and one of the parties is within our jurisdiction, you will still have the right to sue him and recover so long as it is a final debt.

Mr. Sinanan: Mr. Speaker, there is a certain amount of reciprocity between that gentleman and myself.

Mr. Gomes: The Prime Minister seems to have reached that final position,

Sir, where he needs a ward to take care of him.

Question put and agreed to.

Bill read a Second time.

The Prime Minister: I never attack my friends.

Mr. Speaker, I apologise for making that preliminary remark, and beg to move that this House do now go into Committee to consider this Bill.

House resolved into Committee.

Clause 2:

Mr. Hill (Surrey, Jamaica): Under the definition of "judgment" it is stated that —

"judgment" means a judgment or order given or made by a court in any civil proceedings, or a judgment or order given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party . . ."

This is what I am interested in —

The Prime Minister: You would be.

Mr. Hill: I will tell you again. This is how it continues —

" . . . and, in relation to any country or territory within the Commonwealth, includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place."

Why is there this reference only Commonwealth countries? I would like the Prime Minister to inform this House why that limitation is made respect to the Commonwealth?

The Prime Minister: Speak; I will try to remember — I admit I

Monday, 23rd May, 1960

looked at this for sometime — arbitration in foreign countries is not the same as arbitration in Commonwealth countries, because normally in arbitration you have to give to parties the right to enforce a judgment in a Court of Common Law; that is, in a British Court. I am speaking from memory, because it is months since the draft was brought to the Council of State.

Unless you have in other countries similar provisions — because arbitration can take place between any two people — no Court, or anything like that; the parties sit down in a back-room and the parties agree and come to a decision, unless you say that that decision could have the same effect as a judgment in a Court, it is merely a general agreement.

Speaking again from memory, I will say that you will not find in every country the same provisions written into the Acts which deal with arbitration proceedings. It is like the trade union matters. Trade unions go to arbitration and before they do so they say that the decision will have the same effect as a judgment in a Court. That is the reason.

not mind **Hill**: That, Mr. Chairman, might be a very plausible argument, but may I suggest to the hon. Prime Minister that in cases like Jamaica where proceedings have been given and where a Tribunal or Arbitration Tribunal is set up under the Arbitration Act, the prior agreement of parties is not necessary for the purpose of enforcing the arbitration award.

So, why does not the Prime Minister — why could there not be a provision in relation to countries outside of the Commonwealth where similar arbitration procedures exist? Why could not such other countries be included?

It would be not merely —

“—in relation to any country or territory within the Commonwealth—”

Should it not include any foreign or overseas country outside the Commonwealth, where the procedure is similar to arbitration procedure within the Commonwealth? I feel that this limitation is too narrow and if the Government has any good reason so to limit it, we would like to hear the reason.

Mr Shah (St. Patrick, Trinidad): Mr. Chairman, I look at the definition of “overseas countries” on page 4, and I see it says that —

“overseas country” means —

- (a) “any foreign country or
- (b) any country or territory within the Commonwealth and outside the Federation.”

Considering the definition of these countries as given here, I am inclined to agree with the views expressed by the hon. Member for Surrey; because, on reading this, it is clear to me that the definition of “judgment” does seem to limit itself to judgments of any country or territory within the Commonwealth —

Hon. Members (Government Benches): No, no. In respect of arbitration.

Mr. Shah: It says here —

“—in respect of compensation or damages to an injured party, and in relation to any country or territory within the Common-

Monday, 23rd May, 1960

[MR. SHAH]

wealth, includes an award in proceedings on an arbitration—”

Hon. Members (Government Benches): “Includes.”

Mr. Richards (Minister without Portfolio): That is only a part of it.

Mr. Shah: Yes, I know that is only part of it. It means—

“—in relation to any country or territory within the Commonwealth, includes an award in proceedings on an arbitration—”

To my mind, the position is a little ambiguous. It would have been much better if language could have been used to remove the ambiguity and make it very clear that the judgment includes judgment from all courts of any foreign country and countries or territories of the Commonwealth.

The Prime Minister: It might clear the air if I dealt with the last question first. “Overseas countries” means any foreign country. We don’t want to call Canada and Australia foreign countries. Let me repeat, it is not every arbitration that can be enforced as a judgment of the court. We may have an arbitration concerning a sweepstake ticket. A court may even call it an illegal transaction and may not enforce it. It is only where, as in most British territories, you have a Statute legalising gambling that if the Turf Club does not pay you, you could take the matter up. That is ordinary gambling. You may have an arbitration in the case of a dispute where you appoint somebody—generally it is agreed to appoint two men as arbitrators and a referee, in case the two disagree. The object of wording the Clause in this way

is this. You have a British law, an Arbitration Act, which says that where there is an arbitration on such and such a thing, the arbitration’s findings shall have the force of law. In short it becomes a judgment. But look how often you have an Arbitration Tribunal giving a decision and both sides saying, “We are fed-up, we are not satisfied”. Unless you put it in a Statute that the findings of an arbitration shall be enforceable in law—that is where it is set out at the bottom of page 3, judgments—

“—in pursuance of the Law in force in the place where it is made, become enforceable in the same manner as a judgment given by a court in that place.”

But, you may find a foreign country where so much consideration does not arise.

Mr. Hill: Why not make provision for the issuing of an Order in Council, if and when such a case arises?

The Prime Minister: My answer to that is simple. It is enforceable in “B” country and you can go and enforce it even though it be an arbitration decision.

Mr. Hill: You said only within the Commonwealth.

The Prime Minister: I think the hon. Leader of the Opposition will agree with what I am going to say. I don’t mean that other hon. Members are not going to agree, but there are so many things that appeal to lawyers straight away that are Chinese puzzles to laymen. Very often the lawyers deliberately make them like that. “Includes” does not mean “only this”. When you say “includes” it means that there are some things you might do but it does not exclude. You know that? The hon. Member says he knows that.

Monday, 23rd May, 1960

I am asking you to read in this case simple English. The only difficulty that has arisen so far is the necessity to remind certain Members that not every arbitration decision can be enforced in a Court of Law, otherwise everything dealt with so far is perfectly straightforward.

Mr. Hill : I am only asking, Mr. Chairman, why does this apply only to countries within the Commonwealth and why is the provision, so far as arbitration is concerned, not widened to include the necessary power — enabling power — for similar reciprocal advantages in respect to countries in which you may subsequently come to find that there are arbitration procedures similar to those existing in Commonwealth territories?

Mr. Pierre : Who is going to decide that?

The Prime Minister : I have been reminded that some of these arbitration Acts go back to 1893. There is an English Arbitration Act which gives the right, in certain instances, to enforce the decision on arbitration and so it becomes as a judgment of the Court.

The answer really is that "original court" does not necessarily mean "foreign court". The Sections dealing with arbitration in the British Statute are copied from the Old English Statute and that is why we make reference to this "within the Commonwealth" and nobody else.

I will repeat, that even if I am attacked for being silent on any more questions, I will not speak again.

Mr. Hill : Mr. Chairman, why does the Prime Minister believe that when

Members ask questions, we are attacking him?

The Prime Minister : Nobody is attacking me. I hear remarks and that is all.

Mr. Hill : One of the things that rather causes a certain amount of apprehension on the Opposition Benches is that the Government believes it has a monopoly of wisdom and foresight and legal knowledge and that the Opposition has no right in this House.

If one leaves the Government to pursue its peaceful, massive immobilism, and *laissez faire* existence, then one would not feel that one was doing one's duty.

On the other hand, when we ask questions, however courteously, if and when, as sometimes occurs, the Ministers find themselves embarrassed because they have not done sufficient home-work, or applied themselves to the historical background of the matter, then we on this side are charged with attacking them.

3.30 p.m.

The Prime Minister : Who charged you with attacking the Government?

Mr. Hill : You said a while ago that we can continue to attack if we are not satisfied.

Mr. Chairman, the Prime Minister has not addressed himself to the point that I have raised. We know that there are cases where arbitration awards are not enforceable after they have been made, but we also do know that there exists in some territories (I would not say in all Common-

Monday, 23rd May, 1960

[MR. HILL]

wealth territories), a law known as the Arbitration Law, under which all awards are enforceable. In other words, under that law, the awards have the same force as Judgments of a Supreme Court.

Now, if that exists in other Commonwealth Territories, and the Prime Minister has not, in his research on the matter, found out whether such a law exists in any other countries of the world, then all we are asking is: why has he not seen fit or, would it not be right and proper to have an enabling Clause so that when any other country outside the Commonwealth is discovered to enjoy similar arbitration procedures, then the Governor-General, or the Cabinet can make an Order under this Reciprocal Bill, applying the provisions to such other country.

The Prime Minister has not answered my question. He just begged the question by saying "It may exist or may not exist."

The Prime Minister : What is wrong with that ?

Mr. Shah (St. Patrick) : Mr. Chairman, there is another aspect of this same Clause which I would like to get an explanation on. Because, so far as this other question is concerned, having regard to the last answer, it appears that the limitation of this Section to Commonwealth countries, in respect to arbitration, is deliberate.

I see here, Sir, that sub-Clause (2) of Clause 3, in stating the types of judgments to which this Act applies, says this :

"if — (b) there is payable thereunder a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty ;"

Having regard to this last phrase I would like the hon. Prime Minister to give me some clarification of —

"in respect of a fine or other penalty",

Coming back to the definition of "judgment" on Page 3, it says this :

"'Judgment' means a judgment or order given or made by a court in any civil proceedings, or a judgment or order given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party . . ."

I am only asking for some clarification, Sir, from the Prime Minister. I can visualize a case in criminal proceedings of a sum awarded to an injured person by way of compensation in a wounding case. If such an order is registrable here in Trinidad I would like to know from the Prime Minister, what are his views on the question of enforcement of such an order.

Mr. Rocheford (Barbados) : Read the Bill.

Mr. Shah : Mr. Chairman, I wish the hon. Member would permit the Prime Minister, to whom my question is addressed, to answer. I see that whenever legal questions arise in this House, it is always the laymen on the other side who are anxious to answer.

Mr. Speaker : And they do not stand.

Mr. Shah : Yes, Sir, they do not even show respect to the Chair.

Mr. Bradshaw : And it is always the non-legal Members on the Opposition side who are asking the questions.

Mr. Shah : However, Mr. Chairman, I am not instituting any debate on this point. I really would like to get some answer, be-

Monday, 23rd May, 1960

cause as you know, Sir, in Trinidad, the only procedure open here to enforce collection of compensation in criminal proceedings, is by way of arrest: I do not know whether it is the intention here that criminal compensation should be collected by way of arrest also. I would like to know, Sir, if such an order from the United States of America would be registrable here in Trinidad, and if the order can be followed up by way of arrest, as that is the only means of enforcing the payment of compensation here in criminal proceedings.

The Prime Minister: Mr. Chairman, if I may say with the greatest possible respect, here in the plainest possible English is (1) you can collect in some other country if the judgment you have obtained is final and closing between the parties; and (2) if that judgment orders a person to pay a sum of money — I am translating and perhaps my English makes it a little more difficult than the original English — then that sum of money is payable. Do you want an explanation on that?

(Clause 2 agreed to and ordered to stand part of the Bill.)

All other Clauses agreed to and ordered to stand part of the Bill.

House resumed.

Bill reported, without amendment; read the Third time and passed.

INCOME TAX (FEDERAL EMOLUMENTS) BILL
(Second Reading)

The Minister of Finance (Mr. Bradshaw): Mr. Speaker, I beg to move the Second Reading of the Income Tax (Federal Emoluments) Bill. This Bill, Mr.

Speaker, as you know, represents a subject that is being taken up by the Federal Government to correct what was an error with respect to the Income Tax (Federal Emoluments) Act, 1958.

Mr. Joseph (San Fernando/Naparima). A serious error too! Two hundred and fifty two dollars in error!

Mr. Bradshaw: Early last year, Sir, when it was sought to enforce the provisions of the law of 1958, objections were lodged with the Federal Commissioner of Income Tax from various sources. As a result of the examination of those objections, the Government directed that the law be examined by its legal officer, especially in respect to the objections that had been raised, and as a result it was decided to repeal the 1958 law by the Bill which is before us and which we hope, and expect, will shortly be made into law.

I have got some notes here, Mr. Speaker, which, with your permission, I shall read so that a clearer explanation will be given in addition to what is said, and also I will refer to the various sections of the Bill that are changed, having regard to what the law is at the moment.

The main variation between the 1958 Act and the draft Bill is the deletion of the Second Schedule to the Act, Rule 4 of which fixed the Federal tax as a proportion of the hypothetical tax which would have been payable if the total income of the taxpayer were liable to tax under the Act, this proportion being that which the Federal income bears to the total income. The Bill imposes tax only on the Federal income of the tax-payer without aggregating it with other income and provides for the abatement of the personal allowances, that is,

Monday, 23rd May, 1960

[MR. BRADSHAW]

allowances in respect of the individual, wife, wife's earned income, children, house-keeper, dependants, life insurance premiums, etc., in cases where the tax-payer is in receipt of income, liable to tax under the law of the Territory of residence and therefore eligible for personal allowances in accordance with the provisions of the law of that Territory.

As the 1958 Act has in fact been levying tax calculated by reference to income other than Federal emoluments, it is obvious that the yield on the proposed new tax would be somewhat less than hitherto and certain adjustments and refunds will be necessary. It should be pointed out, however, that as the 1958 Act had retroactive effect to 3rd January, 1958, the Commissioner of Income Tax allowed Federal tax-payers a reasonable period in which to settle arrears of tax for the income year 1958. Thus only in a few isolated instances, particularly where the tax-payer has since left the Federal service, has the 1958 tax been paid in full. In other instances it will only be necessary to revise assessments already made and adjust P.A.Y.E. deductions accordingly.

It may also be mentioned that the deletion of Section 17 of the existing Act has the effect of granting full personal allowances to non-residents. No objection is seen to this in the case of permanent and pensionable staff of the overseas Commissions who, under the conventional Double Taxation Arrangements are not regarded as ordinarily resident in the country to which they are assigned. Theoretically, however, this decision could create an anomalous situation with regard to pensioners that ought at some stage in the future to be remedied since, on the face of it, a Federal pensioner resident in, say, Trinidad with

local income of his own would be liable to pay more Federal income tax than one resident in the United Kingdom with United Kingdom source of income. The remedy will probably be found to be the imposition of a withholding tax on Federal pensions paid to non-residents; but since there are no Federal pensioners at present the matter is not urgent and it may safely be left over for re-examination in the context of whatever decisions are reached by the Constitution Conference in regard to the Federal Government's income tax powers.

The opportunity has been taken to amend Section 7 of the existing Act to make it clear that the Commissioner has the power to assess gratuities payable to a contract officer on termination or completion of contract by relation to each of the income years during which such gratuities accrued, in keeping with normal practice.

Mr. Speaker, may I remind this hon. House that income tax is levied according to Item 9 of the Exclusive Legislative List of the Federal Constitution, and also Item 35 of the Concurrent Legislative List. Item 9 of the Exclusive List reads:

"Income tax on emoluments and allowances (including pensions, gratuities and other like allowances) paid from the public funds of the Federation to the President, Vice-President or a member of the Senate, or the Speaker, Deputy Speaker or a member of the House of Representatives or to persons who are or have been in the service of the Crown in respect of the government of the Federation, which service, for the purposes of this paragraph shall be deemed to include service as a judge of any federal court or as a member of the Council of State."

Article 35 of the Concurrent Legislative List reads:

"Taxes on income and profit other than such taxes as are referred to in paragraph 9 of

Monday, 23rd May, 1960

the Exclusive Legislative List, provides that no law of the Federal Legislature enacted by virtue of this paragraph shall make provision for the levying during the period of 5 years beginning with the date when this Constitution comes into force of any such tax."

So that, according to the Constitution, Mr. Speaker, the Federal Government will only levy income tax on emoluments and allowances as provided in Item 9 of the Exclusive Legislative List — and this Bill is intended to give scrupulous effect to that provision.

Mr. Sinanan *inaudible*.

Mr. Bradshaw : In January of 1958, Mr. Speaker, as the hon. Leader of the Opposition has said, we — I take it he means "we" here in the House — did not draw any Federal emoluments. That is self-evident because the Federal elections were held in March of 1958 ; but there were people in the employment of the Federal service as from 3rd January, 1958.

May I be permitted to refer to some of the Clauses ?

Clause 3 .

(a) The definition of "earned income" is amended by the omission of certain words from paragraph (b) as they might be construed as bringing within the scope of the tax persons who do not come within the category of persons set out in paragraph 9 of the Exclusive Legislative List.

Mr. Sinanan : I object to that.

Mr. Bradshaw : (b) The definition of "guardian" is omitted since that expression does not appear in the Bill. [*Interruption*]

(c) New definitions appear — those of "Federal income" and "Territorial income". These definitions are necessary because

inter alia of the use of the expressions in new provisions relating to proportionate personal allowances ;

(d) The definition of "incapacitated persons" is amended so as to exclude a married woman since in the limited application of the Act the necessity to treat a married woman as incapacitated does not arise ;

(e) The definition of "person" is excluded as being unnecessary ;

(f) The definition of "personal allowances" in relation to Territorial income is amended so as to include all allowances of a personal nature which, from time to time, may be granted under the Territorial law.

Mr. Speaker : Mr. Minister, I think the objection that the hon. Leader of the Opposition was taking is correct. That is to say, those would more properly be dealt with when we are in Committee.

Mr. Sinanan : For months I have been trying to be wrong !

Mr. Bradshaw : Mr. Speaker, if I understand it correctly, the Leader of the Opposition was objecting to —

Mr. Sinanan : I told my hon. Friend the Prime Minister that it was for the Committee stage.

Mr. Bradshaw : I didn't understand that. I am sorry. I will leave this until we reach the Committee stage.

Question put and agreed to.

Bill read a Second time.

House resolved into Committee :

Clauses 1-4 agreed to and ordered to stand part of the Bill.

Monday, 23rd May, 1960

Clause 5 :

Mr. Hill : Mr. Chairman, on this question of Official Secrecy, I would like to ask one question, and I don't want the Government benches to believe that the question is amiss ; it has no sinister undertones or overtones. I would like to find out, on this matter of Official Secrecy, whether in the ordinary course of his official duties, information, under law, could properly be disclosed to a Member of the Council of State — a Minister or a Member of the so-called Cabinet that is to be set up.

Mr. Bradshaw : Mr. Chairman, I think the first paragraph of Section 1 of the Bill is very clear. It says :

"5. (1) (a) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists, and copies of such lists relating to the income of items of the income of any person, as secret and confidential,"

If I understand the query of the hon. Member correctly, he wants to know whether any person having to deal with this matter could discuss it —

4.00 p.m.

Mr. Hill : Would a Member of the Council of State — a Minister of the so-called Cabinet in the —

Mr. Chairman : The hon. Member must not refer to "so-called Cabinet" when that is a decision of this House.

Mr. Hill : I don't like the name, Sir. I would like to know whether a Minister — a Member of the embryonic Cabinet, in the ordinary course of things, would be entitled to get information under this law.

The Prime Minister : If he wants to break the law, yes.

Mr. Bradshaw : I understand the Member to ask if, in the ordinary course of things, a Minister were to enquire about a matter, that Minister could get the information. In the case of a Minister, if the matter is referred to the Minister responsible, well, it is the Minister responsible. But no Minister can go into a Ministry and ask for information. He will be chased out. He is not the Minister responsible.

Mr. Sinanan : Who has been chasing the Prime Minister from his own office ?

Clause 5 ordered to stand part of the Bill.

Clauses 6 to 10 ordered to stand part of the Bill.

Clause 11 :

Mr. Bradshaw : This Clause corresponds to Section 14 (2) of the 1958 Act and is amended by the addition of the words "deeds of separation registered." Subsection (5) is amended to include "grandfather" in the Clause of independants.

Mr. Hill : Would the hon. Minister in charge of the Bill say whether that would not work a hardship in cases where deeds of separation are not registered ?

Mr. Bradshaw : No.

Clause 11 ordered to stand part of the Bill.

Clauses 12 to 23 ordered to stand part of the Bill.

Clause 24 :

Dr. Duhaney (Clarendon, Jamaica) :
Mr. Chairman, Clause 24 (3) :

"Any person who refuses, fails or neglects to deliver any return required under the pro-

Monday, 23rd May, 1960

visions of this section shall be guilty of an offence."

Mr. Chairman, this is a matter of offence. In view of the fact that income tax is payable under the PAYE system, then, you must have certain information on hand regarding a person. So whether or not he fails to make a return you have this information on hand. If then you find that he has failed to make a return, well call him in instead of making this an offence; because if you read further on in the following paragraphs you will see what the offence is punishable by. This creates problems that create more problems. The offence itself can come up to more than the tax he would have had to pay in the first instance.

You could say, since the PAYE is in operation and certain facts are on hand, we could bring in the person instead of putting it so that it could be taken as an offence. I know what happens in this business. I have the experience. It happened to me and it could happen to anybody. When you have your motor-car seized in this business it is only then you wake up.

What is an offence? The time they get through explaining what is an offence to you, you have to get a barrister from the United Kingdom costing you £800.

You say here refuse, fail or neglect. Explain what you mean by refusal, failure or neglect. I don't care what you explain — all three will be treated as refusal in a court of law. You have the handle and I have the blade. All I am trying to do is to work up this blade without letting you cut off my fingers. You have PAYE so you get the information. Everybody knows you are a married man and that you have two

children and still, because of the Section here, you are guilty of an offence. If you read Sections 25 and 26 — anyhow we will come to that and unless you try to understand, we'll have to get up and make the points again.

This matter of collecting tax is not a battle. It is friendly procedure — we are taxed and we rush to pay. [*Laughter*] It is not a battle where I have to get a Q.C. from Trinidad to come and fight for me or I have to get a Q.C. from Jamaica to come to Trinidad. But all this must be because they write up the law badly. Write the law good and say there is no offence. Once you are collecting under PAYE you have the facts. Write and tell a man, "it is time to send in your return, we are waiting on your return".

Hon. Member: And if you don't do that?

Dr. Duhaney: Everything is offence, offence, offence. I don't see why you should do that.

Mr. Bradshaw: Mr. Speaker, I am greatly heartened by the expression made by the hon. Member just taking his seat. He said that the payment and collection of taxes is a friendly procedure. We never intended that it should be otherwise. I am glad to hear that coming from the Opposition, Sir.

Mr. Joseph: Not that.

Mr. Bradshaw: In fact the Bill is presented with the utmost friendliness because, among other things, certain hon. Members are going to get refunds —

Dr. Duhaney: If you don't create a situation, Mr. Chairman, you don't have to

Monday, 23rd May, 1960

[DR. DUHANEY]

refund. What about this refund? All that refund business is only red tape, red tape costing you a lot of money. Don't create the situation.

Mr. Sinanan : No doubt about it, income tax is the worst form of taxation!

Mr. Bradshaw : I am very glad the hon. Gentleman, who has just taken his seat, has described payment and collection of income tax as a friendly process. Surely at the Federal level it is a friendly process, so friendly that, by this Bill refunds will be made to those from whom we had earlier collected income tax. It shows how friendly the Federal Government is.

This Section 24 (3) has been put there only as an encouragement to persons to pay tax, to make their returns as quickly, as expeditiously as possible so that the friendly process of collection of tax can be carried through without any inconvenience. That is all.

Dr. Duhaney : But still after you complete your form, your form can be lost, it can be mislaid, it can be lost in the mail. Anything can happen to it. You are creating an impasse here by stating that "refusal, failure and neglect" will be an offence. Unless you make a return, it is an offence. But PAYE is a return. Maybe not to you, but to me; not to the Government members, but to the Opposition. It is a refusal. £800 for the defence!

Clause 24 agreed to and ordered to stand part of the Bill.

Clauses 25 to 32, inclusive, agreed to and ordered to stand part of the Bill.

Clause 33:

Mr. W. B. Williams : Mr. Chairman, I wonder if the hon. Minister concerned has

an estimate of how much this Government will have to pay in refunds.

Mr. Bradshaw : Mr. Chairman, it is estimated at \$12,000, which, I am reasonably certain, many hon. Members will decline to collect.

Mr. Joseph (San Fernando-Naparima) : You are as right in that statement as the Government usually is.

Clause 33 agreed to, and ordered to stand part of the Bill.

Clauses 34 to 35, inclusive, agreed to and ordered to stand part of the Bill.

First Schedule, agreed to and ordered to stand part of the Bill.

Second Schedule agreed to and ordered to stand part of the Bill.

Clause 1 agreed to and ordered to stand part of the Bill.

Mr. Bradshaw : Mr. Speaker, I beg to move that the House do now resume.

Agreed to.

House resumed.

Mr. Bradshaw : Mr. Speaker, I beg to report that the Bill has passed through the Committee stage, without amendment, and to move that the Bill be read a Third time.

Agreed to.

Bill read a Third time and passed.

4.30 p.m.

SETTLEMENT OF BARBADIANS IN DOMINICA

Mr. Bradshaw : Mr. Speaker, before moving the adjournment of the House, may I name Wednesday as the day when the

Monday, 23rd May, 1960

Supplementary Estimate (No. 2) 1960 will be taken.

I beg to move that the House do now adjourn until Wednesday, the 25th of May, 1960.

Mr. Hill: Mr. Speaker, with your permission I beg leave to defer the matter standing in my name — [*Question of number of meetings of the House held annually*].

Mr. Le Blanc (Dominica). Mr. Speaker, I have learned that at present there are nine Barbadians in Dominica examining the possibility of settling a certain number of Barbadians in that Territory. We welcome such a scheme because we have, in the past, advocated free movement and whenever we feel that we can be of assistance to the inhabitants of other Territories — maybe some are too small and cannot maintain their population — we are prepared to open our doors and our land to them.

But, Mr. Speaker, there are certain things happening in Dominica in connection with land at present, of which I feel this hon.

House ought to take cognizance. There is land hunger in Dominica, for in spite of the fact that our population is small and we have so much land, there are as many as six thousand applications from the people of Dominica for land, pending consideration of the Government. As a result of the Government's attitude in not releasing land to the inhabitants there is a mass exodus to the United Kingdom, and I feel that this Government should use its influence in trying to impress on the Dominica Government the importance of getting our population to return to The West Indies. Again, I feel that one of the steps that can be taken in keeping our people in the Federation, for the benefit of The West Indies, is that wherever there is a need for land, the Government should take the necessary steps to release the land to the people.

On these grounds, Sir, I wish the House would take cognizance of the facts. Thank you.

Question put and agreed to.

Adjourned accordingly at 4.30 p.m.